

2/16/89

Text Amendment Application No.
Boston Redevelopment Authority
Technical Amendments

TO THE ZONING COMMISSION OF THE CITY OF BOSTON

The Boston Redevelopment Authority petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956 as amended, as follows.

1. By deleting in clause (3B) of Section 2-1, respecting the meaning of certain words and phrases, all the words following the words: "that portion of a building" and by inserting the following words:

which is more than thirty-five percent below grade.

2. By inserting at the end of Section 2-1(21), respecting "Floor, area, gross", the following paragraph:

When gross floor area determines the applicability or inapplicability of provisions of this code, the entire gross floor area of a structure or building, including likely future expansion, shall be considered and not separate phases or segments thereof. In determining whether two or more structures or buildings are in fact one structure or building, all circumstances shall be considered, including, but not limited to, time interval between phases, whether such structures or buildings, taken together, constitute a common plan or scheme, and whether the impacts of such buildings or structures are separable. Ownership by different

entities does not necessarily indicate that two or more structures or buildings are separate. It is the intent of this regulation that a structure or building or group of structures or buildings not be segmented or phased to evade or defer applicability of provisions of this code.

3. By deleting in clause (22) of Section 2-1, respecting the meaning of certain words and phrases, all the words following "Grade", and by inserting the following words:

the mean elevation of the nearest sidewalk at the line of the street or streets on which the building abuts, except as otherwise provided in Section 16-8 pertaining to restricted roof structure districts; or in the case of a building not abutting on a street, the mean elevation of the ground between the building and whichever of the following is nearer, namely, a line twenty feet from the building or the lot line; but in no event shall the mean elevation of such ground be taken to be more than five feet above or below the mean elevation of the ground immediately contiguous to the building.

4. By deleting in clause (23) of Section 2-1, respecting the meaning of certain words and phrases, all the words following the title "Height of building", and by inserting the following words:

the vertical distance of the highest point of the roof, excluding roof structures normally built above the roof and not devoted to human occupancy, above grade.

5. By deleting in clause (42) of Section 2-1, respecting the meaning of certain words and phrases, all the words following the words "the upper surface of the floor or roof next above," and by inserting the following words:

except that a space used exclusively for the housing of mechanical services of the building shall not be considered to be a story if access to such space may be had only for maintenance of such services.

6. By deleting clause (43) of Section 2-1, respecting the meaning of certain words and phrases, and by inserting in place thereof the following clause:

(43) "Story, first", the lowest story of which sixty-five percent or more of the height is above grade.

7. By deleting clause (43A) of Section 2-1, respecting the meaning of certain words and phrases.

8. By deleting in clause (43B) of Section 2-1, the number "(43B)" and by inserting in place thereof the following number:

(43A)

9. By deleting in Section 16-8, respecting restricted roof structure districts, after the words "(except as allowed in the following paragraph)", the word:

or

10. By inserting in Section 16-8, respecting restricted roof structure districts, after the words "(except as allowed in the following paragraph), storage", the following words:

, or roof structures and penthouses normally built above the roof not devoted to human occupancy,

11. By inserting in Section 16-8, respecting restricted roof structure districts, after the words "from a roof edge that faces a street more than twenty feet wide," the following paragraph:

Roof structures and penthouses normally built above the roof not devoted to human occupancy and the total area of which exceeds 10 percent of the total roof shall be included in measuring the height of building.

12. By deleting in Section 16-8, respecting restricted roof structure districts, after the words "restricting light and air flow to adjacent structures" the word:

and

13. By inserting in Section 16-8, respecting restricted roof structure districts, in the first sentence of the third paragraph after the words "the above", the following words:

"and the following"

14. By inserting in Section 16-8, respecting restricted roof structure districts, in the third paragraph after the words "significantly blocking views from roofs", the following words:

, windows, and balconies. Notwithstanding anything in Section 2-1(22) respecting the definition of the term "grade", if a building abuts more than one street, "grade" is the mean elevation of the street with the lowest elevation.

Linda B. Bourque
Coun. Traveling 9/12/80 Text TC
1/4 date 5

MEMORANDUM

FEBRUARY 16, 1989

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: LINDA BOURQUE, ASSISTANT DIRECTOR FOR
NEIGHBORHOOD PLANNING AND ZONING
RICK SHAKLIK, PLANNER

SUBJECT: REQUEST AUTHORIZATION TO PETITION THE ZONING COMMISSION TO ADOPT
TECHNICAL AMENDMENTS TO THE ZONING CODE REVISING THE DEFINITIONS
OF "HEIGHT OF BUILDING", "GRADE", "BASEMENT", "STORY", "STORY ABOVE
GRADE", AND "STORY, FIRST"; STRENGTHENING THE PROVISIONS IN THE NORTH
END RESTRICTED ROOF STRUCTURE DISTRICT; AND CLARIFYING THE DEFINITION
OF "FLOOR AREA, GROSS", CONCERNING PHASED PROJECTS.

EXECUTIVE

SUMMARY: On July 22, 1987, the Zoning Commission adopted text Amendment No. 94 which, among other things, changed the definitions of "Grade" and "Height of Building". These changes were proposed to bring the Zoning Code definitions into conformity with the State Building Code. However, some serious problems have resulted in the North End and other neighborhoods as a result of these changes, particularly on sloping sites. Higher buildings have become possible under the new definitions in certain circumstances than were previously possible. The changes proposed herein will return to the former method of calculating height from the grade at the sidewalk to the roof.

As part of the 1987 amended definition of "height of building", a provision was added to include in the height calculation roof structures and penthouses normally built above the roof not devoted to human occupancy that exceed one-third of the roof. This change revised the former method of treating such roof structures and penthouses, in effect for over 20 years, and is contrary to height assumptions made in community planning efforts in the Midtown-Cultural District and other neighborhoods. We are proposing to revert back to the former definition of height which does not include mechanicals.

We have been working with the North End community to strengthen the language in the North End Restricted Roof Structure District in order to provide additional protection to the neighborhood from proposed rooftop additions.

The definition of Floor Area, Gross requires clarification concerning multi-phase projects. We are proposing to add language stating that when gross floor area determines the applicability or inapplicability of provisions in the Code, the entire gross floor area of a structure or building, including likely future expansion, shall be considered and not separate phases or segments.

On July 22, 1987, the Zoning Commission adopted Text Amendment No. 94 which made various changes to the Zoning Code including a revision of the definitions of "Grade" and "Height of Building". The changes to these definitions were proposed by the Inspectional Services Department to bring the Zoning Code definitions into conformity with the State Building Code. The text amendment changed the method of calculating height to include the height from the average finished ground level on all sides of building to the roof. Previously, height was calculated from the grade of the sidewalk to the roof.

The new definition of "Grade" and "Height of Building" have caused serious problems in several neighborhoods with projects situated on sloping sites. In one instance in the North End, an additional floor to the top of an existing building was possible under the new definitions that would not have been allowed previously. Many of the City's neighborhoods have hilly areas that could be developed at heights in excess of height limits, as they are commonly understood. We are proposing revisions of the definitions of "Grade" and related definitions to return to the former method of calculating height from the grade at the sidewalk on the street or streets on which a building abuts to the roof.

As part of the 1987 amended definition of "height of building", a provision was added to include in the height calculation roof structures and penthouses normally built above the roof not devoted to human occupancy that exceed one-third of the roof. The previous definition excluded roof structures and penthouses from the height calculation regardless of size. Height standards and limits for the Downtown IPD and final zoning have been based on the old definition. The revised definition particularly impacts on large downtown buildings which frequently require several full floors for mechanicals. Including mechanicals in height calculations significantly reduces allowable FAR above grade in districts with height limits. We are proposing to revert back to the former definition of height which does not include mechanicals.

The above changes also will require some adjustments to other definitions in the Code including "basement", "story", "story above grade", and "story, first" to make them consistent with the revised method of calculating height.

On June 24, 1985, the North End Restricted Roof Structure District was added to the Code. Since that time, it has become apparent that the Restricted Roof Structure District does not provide the degree of regulation of rooftop additions that the community sought. We have been working with the North End/Waterfront Neighborhood Council Zoning Subcommittee to respond to concerns that the language in the Restricted Roof Structure District needs to be strengthened. The proposed amendment would add provisions to the Restricted Roof Structure District in the North End concerning the blocking of windows and doors in adjacent structures, and blocking views from buildings of Boston Harbor, the Charles River, and public parks. We are also proposing to clarify the Restricted Roof Structure District in the North End by adding language stating that roof structures and penthouses normally built above the roof not devoted to human occupancy shall be subject to the provisions of the Restricted Roof Structure District and that such structures and penthouses exceeding one-third of the roof shall be included in measuring the height of building.

The definition of "Floor Area, gross" needs to be clarified concerning multi-phase projects. Gross floor area often triggers other provisions of the Code. We are proposing to add language that makes it clear that the entire gross floor area of a structure or building, including likely future expansion, shall be considered and not separate phases when gross floor area determines the applicability or inapplicability of provisions in the Code. The intent of this proposed provision is that a structure or building or group of structures or buildings not be segmented or phased to evade or defer applicability of provisions of the Code.

Staff recommends that these changes be made in order to amend those sections of the Zoning Code that are inappropriate and clarify definitions.

VOTED: That the Director is hereby authorized to petition the Zoning Commission to adopt the text amendments in substantial accord with the petition submitted to the Board on February 16, 1989, revising the definitions of "height of building", "grade", "basement", "story", "story above grade", and "story first"; strengthening the provisions in the North End Restricted Roof Structure District; and clarifying the definitions of "floor area, gross".